

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING
PORTSMOUTH, NEW HAMPSHIRE
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

EILEEN DONDERO FOLEY COUNCIL CHAMBERS

7:00 p.m.

**March 6, 2007, Reconvened
From February 20, 2007**

MEMBERS PRESENT: Chairman Charles LeBlanc, Vice Chairman David Witham, Carol Eaton, Alain Jousse, Charles LeMay Arthur Parrott, Henry Sanders

EXCUSED: None

ALSO PRESENT: Lucy Tillman, Chief Planner

3) Petition of **Frederick and Christine Harrington, owners**, for property located at **2 Truman Place** wherein the following Variances were requested from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) to allow a 9' x 12' sun room on a previously approved deck with a 20'± rear yard where 30' is the minimum required. Said property is shown on Assessor Plan 250 as Lot 58 and lies within the Single Residence B district.

SPEAKING IN FAVOR OF THE PETITION

Mr. Lee Stephens stated he was the contractor for the project. They would like to install a sunroom on a previously approved deck which had been built about 10 years ago. The hardships were the shape of the lot and the placement of the home which limited their options. They felt the sunroom would enhance the home and increase values. It would have no negative impact on the community or surrounding properties.

In response to questions from Chairman LeBlanc and Mr. Parrott, he indicated the sunroom would be 12' x 9' set on a 12' x 31' deck and the right rear corner would infringe on the rear yard setback. There is an existing door onto the deck and there would also be one from the house into the sunroom, where there currently are two windows. There would be no construction closer to the rear property line, such as steps and the deck sits roughly 3' up from the ground. The possible digging involved would be if the building department required additional piers, but he felt they were going to be adequate.

**SPEAKING IN OPPOSITION TO THE PETITION, OR
SPEAKING TO, FOR, OR AGAINST THE PETITION**

Mr. Robert Layton stated he resided at 8 Tyler Place, which abuts the property. His concern was that it be placed on the existing deck as planned and that nothing extend any closer to his property.

Mr. Sanders asked if there was a fence between the properties and Mr. Layton stated there was one roughly 6' high.

With no one further rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. Parrott made a motion to grant the petition as presented and advertised, which was seconded by Mr. Witham.

Mr. Parrott stated that one special condition was that relief had already been granted for the existing deck so this would only be a modification. There would be no further encroachment on property lines or effect on the public because the only people who would see it would be the abutter who just spoke. Another special condition was the placement of the house with relationship to the rear property line. This was a logical placement for the sunroom and no other method would allow the access that would be readily available from that part of the house. It is in the spirit of the ordinance to allow people to enjoy their property provided it doesn't cause neighbors concern. This was a simple request which would not diminish property values.

Mr. Witham stated that the previous variance granted did not have a stipulation that the deck could not be enclosed. This was a minimal request and they were not trying to overbuild.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 7 to 0.

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4) Petition of **Charles L. Thayer Revocable Trust, Charles L. Thayer, Trustee, owner, Jerry Thayer, applicant**, for property located at **21 Richmond Street** wherein a Variance from Article III, Section 10-303(A) was requested to allow a 36' x 25' two and a half story single family dwelling to be built after the demolition of the existing home with: (a) a 7.27'± right side yard where 10' is the minimum required, b) a 5'± rear yard where 15' is the minimum required, and c) a total lot area of 4,302± s.f. where 7,500 s.f. is the minimum lot area required. Said property is shown on Assessor Plan 108 as Lot 16-2 and lies within the Mixed Residential Office and Historic A districts.

Chairman LeBlanc advised that a request had been received from the applicant to table the petition to the March meeting.

Mr. Witham made a motion to table the petition to the March 20, 2007 meeting, which was seconded by Mr. Parrott and approved by unanimous voice vote.

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5) Petition of **Jeannette E. Hopkins Trust, Jeannette E Hopkins Trustee, owner**, for property located at **39 Pray Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 172 sf one story irregular shaped

addition with an 8'9"± right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 102 as Lot 38 and lies within the General Residence B and Historic A districts.

Chairman LeBlanc stepped down for this petition and the chair was assumed by Vice-Chairman Witham.

SPEAKING IN FAVOR OF THE PETITION

Attorney Peter Loughlin stated that Miss Jeannette Hopkins had resided in this home for a number of years. She works from her home and has physical limitations which require her to live entirely on the first floor. Miss Hopkins has worked with her architect to address concerns of the Board in rejecting a previous petition. While the new proposal is not ideal, it would be workable for her. They were asking for a 172 s.f. addition, setback 8'9" from the property line where 10' is required. He noted only 12.5 s.f. of the addition actually requires the variance.

Addressing the criteria, he stated that the one-story addition would not result in any diminution in the value of surrounding properties. Justice would be done by allowing the homeowner to stay in her home with no negative impact to the City. There were no hazards created to the public. Special conditions were that they were in an area of homes close to property lines. The main building on the lot was 2'4" from the property line. They need to work around an existing chimney in the back so there really is no other way to accomplish this modest addition. He submitted some letters in support and copies of photographs of the rear of property.

Ms. Anne Whitney outlined the main differences between this petition and the previous one, referencing exhibits they had submitted. They will be keeping part of an existing one story ell and just adding out from that. They shifted the addition, which they were trying to make as small as possible while maintaining the back entry to patio. There would be a ¾ bath, washer and dryer area and a small bedroom of about 85 s.f. They were taking up quite a bit of the patio, but trying to keep the second stairway to the garden and the two small windows in the kitchen.

Noting that a previous concern had been the blocking of an abutter's window, Mr. Sanders asked what they would now be seeing if they looked out that window.

Ms. Whitney indicated that the window in question lined up with the ell and was on the side elevation in her plans. The second window on the rear part of the property was not blocked and there was a little over 9' between the two buildings.

In response to a question from Mr. LeMay, she stated that a survey had been done for the neighboring property at 39 Pray Street, establishing the line of separation and she had verified her measurements from that.

Mr. Witham asked if there had been any response from the abutters to the new proposal and she indicated there had not.

SPEAKING IN OPPOSITON TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. Parrott made a motion to grant the petition as presented and advertised, which was seconded by Mr. Sanders.

Mr. Parrott stated that this proposal addresses the major concerns about the last design. There would be no public interest affected by this attractive and appropriate addition. Special conditions resulting in a hardship were the narrow lot and width of houses resulting in very little space, no matter where the property lines are. Houses were very limited as to expansion and virtually the only way to get the slight addition was out the back. The space needed was on the first floor and they could not go right or left without infringing on the neighbors’ rights to light and air. It was in the spirit of the ordinance and justice was served by allowing this reasonable addition which would not interfere with neighbors. Property values would not be affected as no windows will be blocked. The issue of light and air had been resolved, which had been the Board’s previous concern.

Mr. Sanders noted that an effort had been made by the applicant to achieve what had been commented on in January.

Mr. Witham stated that, with particular reference to substantial justice, this was a reversal from the previous proposal and the inconvenience in not granting this request would not be outweighed by any benefit to the public.

The motion to grant the petition as presented and advertised was passed by a vote of 6 to 0.

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Chairman LeBlanc resumed the chair.

6) Petition of **Stephen F. and Anne B. Collins, owners**, for property located at **230 Park Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 5’4” x 11’9” front porch replacing existing 5’4” x 11’9” entry deck with: a) a 9’± front yard where 15’ is the minimum required, and b) 31.2%± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 149 as Lot 49 and lies within the General Residence A district.

**SPEAKING IN FAVOR OF THE PETITION**

Mr. Stephen Collins stated he was the property owner and passed out some photographs of the property.

Ms. Tillman noted that, when originally advertised, the existing deck was going to be removed but that has been changed so less relief is being requested.

Mr. Collins stated they would be replacing the roof, which doesn’t adequately cover the front deck, by a 5’4” hip style roof, which will do so and allow a safe and dry entrance. The upper floor was currently dumping a lot of snow there. He identified the various views in the photographs he had submitted, one of which showed a roof down the street similar to what they were trying to do.

In response to questions from the Board, he indicated the roof will come out to the edge of the deck and have pillars. They were not proposing to cover the stairs. The roof would be a couple of feet larger.

**SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Sanders made a motion to grant the petition, as amended to a roof over the existing deck only, which was seconded by Mr. Parrott.

Mr. Sanders stated that concerns addressed by the Board in reviewing a previous submission had been addressed and this petition would not be contrary to the public interest. The hardship would be that the current porch coverage was inadequate with the roof only covering half. The difference would be of slight consequence and similar to neighboring houses.

Mr. Parrott stated that this was a modest approach and appropriate to the neighborhood so no rights would be negatively affected.

The motion to grant the petition, as amended to a roof over the existing deck only, was passed by unanimous vote of 7 to 0.

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7) Petition of **Geoffrey M. Spitzer, owner**, for property located at **4 Jenkins Avenue** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow the following: a) a 6' x 32'6" one story addition to the front of the house with 5' x 6' steps having a 7'6"± front yard where 30' is the minimum required, b) a new 32'6" x 36' roof having a full dormer in the rear and a partial dormer in the front creating living space on the second floor with a 7'6"± front yard and a 9'± rear yard where 30' is required for both the front and rear yards, c) a 9'6" x 9'6" addition for a storage shed with a sunroom above to the right side of the existing house having a 13'6"± front yard and a 29'6" rear yard where 30' is the minimum required for both the front and rear yard; and, d) 23.4%± building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 230 as Lot 8 and lies within the Single Residence B district.

SPEAKING IN FAVOR OF THE PETITION

Mr. Geoffrey Spitzer stated they had owned the property since 2004. He is now engaged and additional living space over the original 900 s.f. was required. While it sounded like a lot of relief they were requesting, it actually was not which he would demonstrate as they went through the plans.

One of the special conditions was the existing ledge, which is inside and outside as can be seen in the plans. There is exposed ledge which comes to within 10' of the property on the left side. They had limited options to adding on. Mr. Spitzer outlined the options they had considered to work around the ledge. He referred to his exhibits and photographs showing the existing house and proposed elevations. They finally settled on a bungalow design, which would add a full dormer to the back and a partial to the front. The key to adding quality space to the second floor while keeping the height down was to add space to the front. There was also a set of stairs to the right needed to get up to front porch. A 9'6" sunroom would be added off the kitchen and underneath a shed for needed garden tool space. All changes were within the existing footprint or did not further infringe on setbacks at the rear and sides. The front setback and building coverage would be affected.

In response to questions from the Board, Mr. Spitzer indicated that the location of the sunroom would be at the corner of Jenkins and Rockaway Streets and is to the west.

Addressing the criteria, Mr. Spitzer stated that it would be in the public interest to make architectural changes to what has been an ugly duckling in the neighborhood. The space limitations caused the previous owners to rent the space out, which resulted in a turnover of numerous tenants. A variance was required no matter what they try to do with that small space. One of the hardships was that the existing structure was not conforming due to the substandard lot size. Even with the modest increase into the setback, they will be in line with other homes in the neighborhood. He stated that there would be minimal infringement on the light and air as the distance from the front of the house to Jenkins Street is over 41' and to the neighbor across the street 86'. At the back, the distance to the neighbor's home would be at least 60'. Justice would be served by allowing them to stay and enjoy the property and values would be increased by the upgrades and the fact that the house would be owner occupied and not a rental situation. He indicated that he had provided copies of letters from neighbors in support.

In response to additional Board questions, Mr. Spitzer stated that one of the areas he had indicated was part of a right of way owned by the City and the existing rear setback was 9'. The addition at the rear was abutted by a neighbor with another lot which could be a double, then the other side of the road leading to the school. From the edge of the pavement to the proposed addition is approximately 41' at the closest point.

SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. Witham made a motion to grant the petition as presented and advertised, which was seconded by Ms. Eaton.

Mr. Witham stated that, when he first read the packet, he felt this was overintensification of a small house, but, after looking at the plans, he feels it was well done and appropriate. Driving by the house you would never determine where the front property line actually is because of the buffer space. The way the lot is situated addresses a lot of concerns. On the rear side, having a full shed

dormer can be a problem, but there is a good deal of heavily vegetated space between this home and the home to the rear. With the ledge, the storage shed under the sunroom was handled well and appropriately, although it adds to the lot coverage. Expansion anywhere on the lot would require a lot variance. This is the most appropriate location for the addition and he didn't feel it was overintensification. The scale of the house was appropriate to the neighborhood. With the buffer spaces, the public interest would not be injured. Special conditions were the undersized lot and location of the existing house which does not meet setbacks so that going up requires a variance. With the 40' buffer front and the right of way, the light and air protected by the ordinance would be satisfied. If anything, an upgrade would help increase neighborhood property values.

Ms. Eaton stated that the right of way greatly reduces the impact of the addition. The neighborhood was well established and she didn't see much possibility for future change.

The motion to grant the petition as presented and advertised was passed by unanimous vote of 7 to 0.

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8) Petition of **Tylene A. and Alain R. Jousse, owners**, for property located at **197 Dennett Street** wherein the following were requested: 1) Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) to construct a 13'4" x 16' x 1' two story addition with: a) a 5'10"± right side yard where 10' is the minimum required, and b) a 15'2"± rear yard where 20' is the minimum required, 2) a Variance from Article III, Section 10-302(A) to allow a second dwelling unit on a 4,335.7 sf lot where 15,000 sf would be required for two dwelling units; and, 3) a Variance from Article XII, Section 10-1204 Table 15 to allow one onsite parking space to be provided where 3 parking spaces are required. Said property is shown on Assessor Plan 142 as Lot 8 and lies within the General Residence A district.

Chairman LeBlanc announced that the applicant had requested that the petition be tabled to the next meeting.

A motion was made by Mr. Witham, seconded by Mr. Parrott, and approved by unanimous voice vote to table the petition to the March 20, 2007 meeting.

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II. ADJOURNMENT.

The motion was made, seconded and passed to adjourn the meeting at 8:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary